IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5470 OF 2005

Vijay Lalaji @ Kakaji More ...Applicant
Vs.
The State of Maharashtra ...Respondent

CRIMINAL APPLICATION NO.5141 OF 2005

Verghese Ommen John ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Uday Warunjkar for the Applicants in Criminal Application No.5470 of 2005 and 5141 of 2005.
Shri. R.Y. Mirza, A.P.P. for the Respondent in Criminal Application Nos.5470 of 2005 and 5141 of 2005.

AND

CRIMINAL APPLICATION NO.4943 OF 2005

Mr. Stephen Daniel ...Applicant
Vs.
The State of Maharashtra ...Respondent

Ms Pranali Kakade for the Applicant.
Ms Rajeshree Gadhvi, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 30, 2005.

P.C.:

1. Heard Advocates appearing for the Applicant in these Applications and learned A.P.P. for the State.

2. These Applications can be disposed of by a common order as the Applications arise out of the same offence. The prayer made in these Applications is for relaxation of conditions imposed by the Sessions Court in the separate orders passed by which the Applicants in these Applications were ordered to be enlarged on bail. In Criminal Application No.5470 of 2005 the

direction is for furnishing P.R.Bond in the sum of Rs.10,00,000/- (Rupees Ten Lacs) and surety bond in the like amount. Apart from the said direction various other conditions have been imposed such as direction to surrender passport. Condition regarding marking attendance in the office of A.C.P. Crime Branch is also imposed by the Sessions Court. More or less identical conditions are imposed in other two Applications.

3. The learned Advocate appearing for the Applicants submitted that the bail amount of Rs.10 lacs is exorbitant. It was submitted that it is impossible for the Applicants to avail of the facility of bail in view of the fixation of bail amount at Rs.10 lacs. The learned Additional Public Prosecutors appearing for the State submitted that the allegations made against the Applicants are of serious nature. The allegation is that the Applicants alongwith the co-accused illegally transferred the amounts standing in the various accounts of the American citizens. Various bogus accounts were opened in different banks in Pune. The allegation is that the amounts are transferred via internet to the said accounts and the said amounts have been withdrawn by the accused persons. The allegation is that the accused persons have withdrawn a sum of Rs.75,27,173/-. Therefore, the learned A.P.P. submitted that no interference is

called for.

4. I have perused the orders passed by the Sessions Court granting bail in favour of the Applicants in these Applications. There cannot be any dispute that while granting bail by exercising powers under section 439 read with section 437 of the Code of Criminal Procedure, 1973, the court has got power to impose stringent conditions. In a given case, Court can fix higher amount of bail considering the facts and circumstances of the case. In the present case, perusal of the orders passed by the Sessions Court shows that no reasons have been assigned for fixing the bail amount in the sum of 10 lacs. In case of all the three Applicants, the Sessions Court has imposed stringent condition of not living Pune district. There are no reasons recorded for coming to the conclusion that such high amount of bail is required to be fixed. What is to be seen is whether it is ensured that the Applicants attend the court proceedings and do not abscond. In my view, sufficient stringent conditions have been already imposed by the Sessions Court.

5. In my view, condition Nos.(ii) to (iv) incorporated in the orders of the Sessions Court while enlarging the Applicants on bail will have to be modified. Bail amount will have to be fixed at

Rs.75,000/- with one or two local sureties in the like amount.

6. Hence, these Applications are disposed of by passing following order:

: O R D E R :

i) Condition Nos.(ii) to (iv) in the orders passed in favour of the Applicant are modified and the said conditions will now read as under:

> (ii) The Applicant shall be enlarged on bail on furnishing P.R. Bond in sum of Rs.75,000/- with one or two local sureties in the like amount.
>
> (iii) The Bail is granted subject to condition that the Applicant shall not leave the area falling within the jurisdiction of Pune district till the conclusion of the trial without permission of the Sessions Court.
>
> (iv) The order granting bail will be given effect only after the Applicant surrenders his passport to the Office of A.C.P. Crime Branch, pune and only after the Applicant furnishes his detailed address of the place where he proposes to stay after he is enlarged on bail.

(ii) The other conditions stand as it is.

(iii) Parties to act upon an authenticated copy of this order.

JUDGE